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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,377	08/05/2003	Robert Lewis	780139.91751	6931
7590	11/30/2005			EXAMINER
Barry E. Sammons Quarles & Brady, LLP 411 East Wisconsin Avenue Milwaukee, WI 53202			MATTHEWS, TERRELL HOWARD	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/634,377	LEWIS ET AL.	
	Examiner Terrell H. Matthews	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/22/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claims 1-13 are pending in the instant application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites the limitation "said other free lift cylinder" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 8, the phrase "substantially" renders the claim indefinite because it is unclear as to what qualifies as substantially aligned.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato (6505710).

Referring to claim 1-2. Kato discloses a "Mast Apparatus For Fork Lift Trucks" as claimed. See Figs. 1-13 and respective portions of the specification. Kato further discloses a base section (1) having a pair of spaced, upright base rail members attached to the lift truck; an outer telescopic section (3) having a pair of spaced, upright mid rail members slidably attached to the pair of base rail members and disposed laterally inward therefrom; an inner telescopic section (4) having a pair of spaced, upright top rail members slidably attached to the pair of mid rail members and disposed laterally inward there from, a pair of lift chain pulleys (19,26), one mounted to the upper end of each mid rail member and each being disposed forward of the top rail members of the inner telescopic section; a pair of lift chains (20,28), one disposed over each of the lift chain pulleys and having one end connected to the base rail member and a second end connected to the top rail member; and a pair of main lift cylinders connected between the base section and the outer telescopic section and being operable to extend the mast upward by sliding the outer telescopic section with respect to the base section and a pair of main lift cylinders (2) connected between the base section and the outer telescopic section and being operable to extend the mast upward by sliding the outer telescopic section with respect to the base section (See Col. 4 l. 42 – Col. 5 l. 64 & Figs. 3,5).

Referring to claim 3-5. Kato discloses a carriage (13) slidably mounted to the inner telescopic section; and a pair of free lift cylinders (18) mounted to the inner telescopic section (See Col. 4 l. 65 – Col. 5 l. 6) and being operable to slide the carriage up and down the inner telescopic section, said free lift cylinders being disposed to the

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rear of the inner telescopic section (See Col. 6 l. 3-9 & Fig. 3,5). Kato further discloses that the free lift cylinders each include a rod having a chain pulley mounted to it's end, and a pair of free lift cylinders extend over the respective chain pulleys and connect to the carriage (See Col. 5 l. 63 – Col. 6 l. 9 & Fig. 3-5).

Referring to claims 6-7. Kato discloses a hose pulley mounted to the end of the rod associated with the free lift cylinder in which hoses extend over the hose pulley and connect the carriage (See Col. 6 l. 13-26 & Fig. 5).

Referring to claim 10. Kato discloses that each mid rail member has web portion and a forward flange that the top rail member has a web and a forward flange and that the lift chain pulleys are rotatably mounted in the openings in the web portion of each mid rail member with their axes of rotation in the fore and aft direction wherein the lift chain pulley are positioned between the forward flanges of the mid rail member and the top rail member (See Col. 5 l. 19-40 & Fig. 5,13)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato in view of Riddle (4721187).

Referring to claims 8-9. Kato discloses the invention as described above. Kato further discloses that all of the rail members have C-shaped cross-sections with rear flanges. Kato additionally discloses that the mid rail members substantially aligned with the rear flanges of the base. Kato does not disclose that the mid rail or top rail members each have an I-shaped cross sections disposed laterally inboard of the base rail members. Riddle discloses a "Lift Truck Mast Structure" as claimed. See Figs. 1-5 and respective portions of the specification. Riddle further discloses the lift truck apparatus comprising a mast, base section, movable sections, cylinders, a carriage, chains, pulleys, hydraulic hose, and I-shaped supports. It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Kato to include the teachings of Riddle and provide mid and top rail members that had I-shaped cross section so that it could be a more compact construction (See Col. 5 l. 19-40, Col. 7 l. 40-45 & Fig. 5,10,13).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ronald U.S. Patent No. 5984050 discloses a "Carriage Suspension For Lift Truck" comprising a carriage, a mast, mainframe members, telescopic members, ram mechanisms, pulleys, chain assemblies, crossties, and flanges.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

THM



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